

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JAMES M. PLASSE,

Plaintiff,

vs.

**TYCO ELECTRONICS
CORPORATION,**

Defendant.

Civil Action No. 04-CV-30056-MAP

**DEFENDANT’S ASSENTED-TO MOTION FOR LEAVE TO FILE REPLY
IN SUPPORT OF ITS APPLICATION FOR FEES AND COSTS**

Defendant Tyco Electronics Corp. (“TEC”) hereby moves for leave to file a brief Reply in Further Support of Its Application for Fees and Costs (“Reply”) to respond to two misleading arguments in the opposition submitted by plaintiff, James M. Plasse. *See* Ex. A (Proposed Reply Memorandum). First, Plasse argues that TEC’s application for fees and costs should be denied because “the Plaintiff offered to voluntarily dismiss the action but Defendants [*sic*] insisted on payment of their expert’s fees.” (Opp. Memo. ¶1). However, Plasse fails to provide the Court with a full history of his “offer” and ignores the fact that TEC had asked Plasse to dismiss the actions months before TEC was forced to incur the bulk of the attorney and expert fees stemming from Plasse’s misconduct. The Reply sets forth relevant additional facts concerning this history. Second, Plasse argues that TEC’s fees should be reduced because the amount of time and effort invested by TEC’s counsel supposedly was excessive. (Opp. Memo. ¶¶2, 4-6, 8). The attached Reply explains why the time TEC’s counsel spent on this matter was necessary to uncover Plasse’s malfeasance.

Accordingly, TEC believes that the Reply will assist the Court in resolving the pending Motion to Dismiss, and respectfully asks the court to consider the attached Reply.

Respectfully submitted,

TYCO ELECTRONICS CORPORATION,

By its attorneys:

/s/ Ingrid S. Martin

Jeffrey D. Clements, BBO #632544

Ingrid S. Martin, BBO #653632

Clements & Clements, LLP

50 Federal Street

Boston, MA 02110

(617) 451-1802

Mark Diana, *pro hac vice*

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

10 Madison Avenue, Suite 402

Morristown, NJ 07960

(973) 656-1600

DATED: October 31, 2006

CERTIFICATE OF SERVICE

I, Ingrid S. Martin, hereby certify that a copy of the foregoing document was served electronically to counsel of record for the plaintiff on October 31, 2006.

/s/ Ingrid S. Martin

Ingrid S. Martin

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I, Ingrid S. Martin, hereby certify that Mark Diana, counsel for TEC, conferred with opposing counsel, Maurice Cahillane, about this motion for leave to file a reply by telephone on October 31, and opposing counsel stated that he assents to TEC's motion.

/s/ Ingrid S. Martin

Ingrid S. Martin